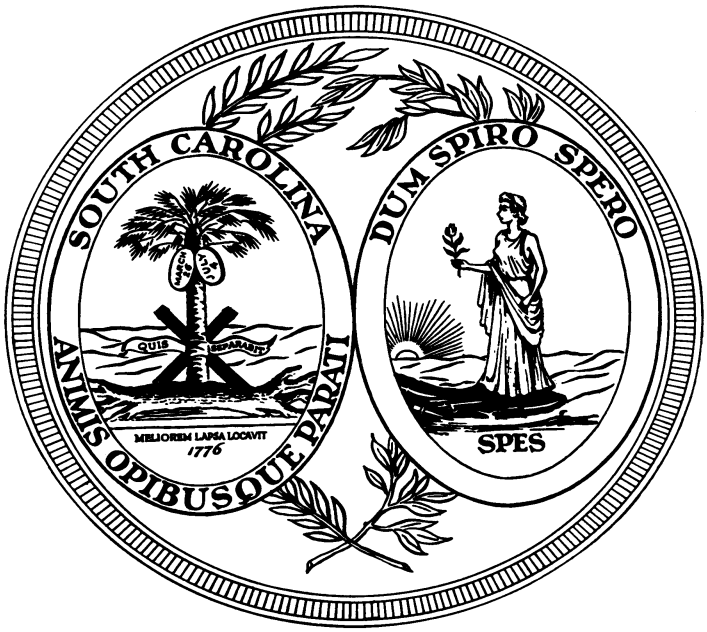
SELECTED SOUTH CAROLINA STUDENT AND SCHOOL SAFETY LAWS AND REGULATION



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STUDENT AND SCHOOL SAFETY

All citations in this document are found in the S. C. Code Ann.

WEAPONS

CRIMINAL ACTIVITY

SEARCH OF PERSON AND EFFECTS ON SCHOOL PROPERTY

CHILDREN'S CODE*

- ***On 7/28/2008 the General Assembly amended the Code of Laws of SC to add Title 63 entitled "South Carolina Children's Code." Some of the section titles could possibly be rewritten when Title 63 becomes codified. Copies are available online at http://www.scstatehouse.net/sess117_2007-2008/bills/4747.htm***

SOUTH CAROLINA STATE BOARD OF EDUCATION REGULATION

WEAPONS

SECTION 16-23-420. Carrying or displaying firearms in public buildings or areas adjacent thereto.

(A) It is unlawful for a person to carry onto any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or into any publicly-owned building a firearm of any kind, without the express permission of the authorities in charge of the premises or property.
(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.
(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.
(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a weapon in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.
(E) For purposes of this section, the terms 'premises' and 'property' do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full time to public vehicular traffic.
(F) This section does not apply to a person who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31 of Title 23 when upon any premises, property, or building that is part of an interstate highway rest area facility."

SECTION 16-23-430. Carrying weapons on school property.

(1) It shall be unlawful for any person, except State, county or municipal law-enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms or any other type of weapon, device or object which may be used to inflict bodily injury or death.
(2) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.

SECTION 16-23-460. Carrying concealed weapons; forfeiture of weapons.

Any person carrying a deadly weapon usually used for the infliction of personal injury concealed about his person is guilty of a misdemeanor, must forfeit to the county, or, if convicted in a municipal court, to the municipality the concealed weapon, and must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned not less than thirty days nor more than ninety days. Nothing herein contained may be construed to apply to (1) persons carrying concealed weapons upon their own premises or pursuant to and in compliance with Article 4 of Chapter 31 of Title 23, or (2) peace officers in the actual discharge of their duties. The provisions of this section do not apply to rifles, shotguns, dirks, slingshots, metal knuckles, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.

SECTION 23-31-215. Issuance of permits.

(A) Notwithstanding any other provision of law, except subject to subsection (B) of this section, SLED must issue a permit, which is no larger than three and one-half inches by three inches in size, to carry a concealable weapon to a resident who is at least twenty-one years of age and who is not prohibited by state law from possessing the weapon upon submission of:
(1) a completed application signed by the person;
(2) one current full face color photograph of the person, not smaller than one inch by one inch nor larger than three inches by five inches;
(3) proof of residence;
(4) proof of actual or corrected vision rated at 20/40 within six months of the date of application or, in the case of a person licensed to operate a motor vehicle in this State, presentation of a valid driver's license;
(5) proof of training;
(6) payment of a fifty-dollar application fee. This fee must be waived for disabled veterans and retired law enforcement officers; and
(7) a complete set of fingerprints unless, because of a medical condition verified in writing by a licensed medical doctor, a complete set of fingerprints is impossible to submit. In lieu of the submission of fingerprints, the applicant must submit the written statement from a licensed medical doctor specifying the reason or reasons why the applicant's fingerprints may not be taken. If all other qualifications are met, the Director of SLED may waive the fingerprint requirements of this item. The statement of medical limitation must be attached to the copy of the application retained by SLED. A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant.
(B) Upon submission of the items required by subsection (A) of this section, SLED must conduct or facilitate a local, state, and federal fingerprint review of the applicant. SLED must also conduct a background check of the applicant through notification to and input from the sheriff of the county where the applicant resides. The sheriff must, within ten working days after notification by SLED, submit a recommendation on an application. Before making a determination whether or not to issue a permit under this article, SLED must consider the recommendation provided pursuant to this subsection. The failure of the sheriff to submit a recommendation within the ten-day period constitutes a favorable recommendation for the issuance of the permit to the applicant. If the fingerprint review and background check are favorable, SLED must issue the permit.
(C) SLED shall issue a written statement to an unqualified applicant specifying its reasons for denying the application within ninety days from the date the application was received; otherwise, SLED shall issue a concealable weapon permit. If an applicant is unable to comply with the provisions of Section 23-31-210(4), SLED shall offer the applicant a handgun training course that satisfies the requirements of Section 23-31-210(4)(a). The course shall cost fifty dollars. SLED shall use the proceeds to defray the training course's operating costs. If a permit is granted by operation of law because an applicant was not notified of a denial within the ninety-day notification period, the permit may be revoked upon written notification from SLED that sufficient grounds exist for revocation or initial denial.
(D) Denial of an application may be appealed. The appeal must be in writing and state the basis for the appeal. The appeal must be submitted to the Chief of SLED within thirty days from the date the denial notice is received. The chief shall issue a written decision within ten days from the date the appeal is received. An adverse decision shall specify the reasons for upholding the denial and may be reviewed by the Administrative Law Judge Division pursuant to Article 5, Chapter 23 of Title 1, upon a petition filed by an applicant within thirty days from the date of delivery of the division's decision.

(E) SLED must make permit application forms available to the public. A permit application form shall require an applicant to supply:
(1) name, including maiden name if applicable;
(2) date and place of birth;
(3) sex;
(4) race;
(5) height;
(6) weight;
(7) eye and hair color;
(8) current residence address; and
(9) all residence addresses for the three years preceding the application date.
(F) The permit application form shall require the applicant to certify that:
(1) he is not a person prohibited under state law from possessing a weapon;
(2) he understands the permit is revoked and must be surrendered immediately to SLED if the permit holder becomes a person prohibited under state law from possessing a weapon;
(3) he is a resident of this State or he is military personnel on permanent change of station orders; and
(4) all information contained in his application is true and correct to the best of his knowledge.
(G) Medical personnel, law enforcement agencies, organizations offering handgun education courses pursuant to Section 23-31-210(4)(a), and their personnel, who in good faith provide information regarding a person's application, must be exempt from liability that may arise from issuance of a permit; provided, however, a weapons instructor must meet the requirements established in Section 23-31-210(4)(b), (c), (d), (e), or (f) in order to be exempt from liability under this subsection.
(H) A permit application must be submitted in person or by mail to SLED headquarters which shall verify the legibility and accuracy of the required documents.
(I) SLED must maintain a list of all permit holders and the current status of each permit. Upon request, SLED must release the list of permit holders or verify an individual's permit status. SLED may charge a fee not to exceed its costs in releasing the information under this subsection.
(J) A permit is valid statewide unless revoked because the person has:
(1) become a person prohibited under state law from possessing a weapon;
(2) moved his permanent residence to another state;
(3) voluntarily surrendered the permit; or
(4) been charged with an offense that, upon conviction, would prohibit the person from possessing a firearm. However, if the person subsequently is found not guilty of the offense, then his permit must be reinstated at no charge.
Once a permit is revoked, it must be surrendered to a sheriff, police department, a SLED agent, or by certified mail to the Chief of SLED. A person who fails to surrender his permit in accordance with this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.
(K) A permit holder must have his permit identification card in his possession whenever he carries a concealable weapon. When carrying a concealable weapon pursuant to Article 4 of Chapter 31 of Title 23, a permit holder must inform a law enforcement officer of the fact that he is a permit holder and present the permit identification card when an officer (1) identifies himself as a law enforcement officer and (2) requests identification or a driver's license from a permit holder. A permit holder immediately must report the loss or theft of a permit identification card to SLED headquarters. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.
(L) SLED shall issue a replacement for lost, stolen, damaged, or destroyed permit identification cards after the permit holder has updated all information required in the

original application and the payment of a five-dollar replacement fee. Any change of permanent address must be communicated in writing to SLED within ten days of the change accompanied by the payment of a fee of five dollars to defray the cost of issuance of a new permit. SLED shall then issue a new permit with the new address. A permit holder's failure to notify SLED in accordance with this subsection constitutes a misdemeanor punishable by a twenty-five dollar fine. The original permit shall remain in force until receipt of the corrected permit identification card by the permit holder, at which time the original permit must be returned to SLED.

(M) A permit issued pursuant to this section does not authorize a permit holder to carry a concealable weapon into a:

(1) police, sheriff, or highway patrol station or any other law enforcement office or facility;

(2) detention facility, prison, or jail or any other correctional facility or office;

(3) courthouse or courtroom;

(4) polling place on election days;

(5) office of or the business meeting of the governing body of a county, public school district, municipality, or special purpose district;

(6) school or college athletic event not related to firearms;

(7) daycare facility or pre-school facility;

(8) place where the carrying of firearms is prohibited by federal law;

(9) church or other established religious sanctuary unless express permission is given by the appropriate church official or governing body; or

(10) hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed unless expressly authorized by the employer.

A person who wilfully violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year, or both, at the discretion of the court and have his permit revoked for five years.

Nothing contained herein may be construed to alter or affect the provisions of Sections 10-11-320, 16-23-420, 16-23-430, 16-23-465, 44-23-1080, 44-52-165, 50-9-830, and 51-3-145.

(N) Valid out-of-state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State. SLED shall make a determination as to those states which have permit issuance standards equal to or greater than the standards contained in this article and shall maintain and publish a list of those states as the states with which South Carolina has reciprocity.

(O) A permit issued pursuant to this article is not required for a person:

(1) specified in Section 16-23-20, items (1) through (5) and items (7) through (11);

(2) carrying a self-defense device generally considered to be nonlethal including the substance commonly referred to as 'pepper gas';

(3) carrying a concealable weapon in a manner not prohibited by law.

(P) A permit issued pursuant to this article is valid for four years. Subject to subsection (Q) of this section, SLED shall renew a permit upon:

(1) payment of a fifty-dollar renewal fee by the applicant. This fee must be waived for disabled veterans and retired law enforcement officers;

(2) submission of one current full face color photograph of the applicant not smaller than one inch by one inch nor larger than three inches by five inches; and

(3) a complete set of fingerprints or medical waiver as evidenced in a statement of medical limitation as provided in subsection (A). A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant.

(Q) Upon submission of the items required by subsection (P) of this section, SLED must conduct or facilitate a local, state, and federal fingerprint review of the applicant. If the background check is favorable, SLED must renew the permit.
(R) No provision contained within this article shall expand, diminish, or affect the duty of care owed by and liability accruing to, as may exist at law immediately before the effective date of this article, the owner of or individual in legal possession of real property for the injury or death of an invitee, licensee, or trespasser caused by the use or misuse by a third party of a concealable weapon. Absence of a sign prohibiting concealable weapons shall not constitute negligence or establish a lack of duty of care.
(S) Once a concealed weapon permit holder is no longer a resident of this State, his concealed weapon permit is void, and immediately must be surrendered to SLED."

SECTION 59-63-235. Expulsion of student determined to have brought firearm to school.

The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240. The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting. Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.

20 USC § 7151. Gun-Free Schools Act.

(a) SHORT TITLE.–This subpart may be cited as the ''Gun-Free Schools Act''.
(b) REQUIREMENTS.–
(1) IN GENERAL.–Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.
(2) CONSTRUCTION.–Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.
(3) DEFINITION.–For the purpose of this section, the term ''firearm'' has the same meaning given such term in section 921(a) of title 18.
(c) SPECIAL RULE.–The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).
(d) REPORT TO STATE.–Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any subchapter of this chapter shall provide to the State, in the application requesting such assistance–
(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b) of this section; and
(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b) of this section, including -
(A) the name of the school concerned;
(B) the number of students expelled from such school; and
(C) the type of firearms concerned.

(e) REPORTING.–Each State shall report the information described in subsection (d) of this section to the Secretary on an annual basis.
(f) DEFINITION.–For the purpose of subsection (d) of this section, the term ''school'' means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.
(g) EXCEPTION.–Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.
(h) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.–
(1) IN GENERAL.–No funds shall be made available under any subchapter of this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.
(2) DEFINITION.–For the purpose of this subsection, the term ''school'' has the same meaning given to such term by section 921(a) of title 18.

CRIMINAL ACTIVITY

§ 16-1-60. Violent crimes defined.

For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16-3-10); criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct with minors, first and second degree (Section 16-3-655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656); assault and battery with intent to kill (Section 16-3-620); kidnapping (Section 16-3-910); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-11-330(A)); attempted armed robbery (Section 16-11-330(B)); carjacking (Section 16-3-1075); drug trafficking as defined in Section 44-53-370(e); manufacturing or trafficking methamphetamine as defined in Section 44-53-375; arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); burglary in the first degree (Section 16-11-311); burglary in the second degree (Section 16-11-312(B)); engaging a child for a sexual performance (Section 16-3-810); homicide by child abuse (Section 16-3-85(A)(1)); aiding and abetting homicide by child abuse (Section 16-3-85(A)(2)); inflicting great bodily injury upon a child (Section 16-3-95(A)); allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B)); criminal domestic violence of a high and aggravated nature (Section 16-25-65); abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E)); accessory before the fact to commit any of the above offenses (Section 16-1-40); attempt to commit any of the above offenses (Section 16-1-80); and taking of a hostage by an inmate (Section 24-13-450). Only those offenses specifically enumerated in this section are considered violent offenses."

HAZING

SECTION 16-3-510. Hazing unlawful; definitions.

It is unlawful for any person to intentionally or recklessly engage in acts which have a foreseeable potential for causing physical harm to any person for the purpose of initiation or admission into or affiliation with any chartered student, fraternal, or sororal chartered organization. Fraternity, sorority, or other organization for purposes of this section means those chartered fraternities, sororities, or other organizations operating in connection with a school, college, or university, but shall not include fraternal organizations with a minimum age limit of twenty-one that do not operate in connection with a school, college, or university. This section does not include customary athletic events or similar contests or competitions, or military training whether state, federal, or educational.

SECTION 16-3-520. Unlawful to assist in or fail to report hazing.

It is unlawful for any person to knowingly permit or assist any person in committing acts made unlawful by Section 16-3-510 or to fail to report promptly any information within his knowledge of acts made unlawful by Section 16-3-510 to the chief executive officer of the appropriate school, college, or university.

SECTION 16-3-530. Penalties.

Any person who violates the provisions of Sections 16-3-510 or 16-3-520 is guilty of a misdemeanor and, upon conviction, must be punished by a fine not to exceed five hundred dollars or by imprisonment for a term not to exceed twelve months, or both.

SECTION 16-3-540. Consent not a defense.

The implied or express consent of a person to acts which violate Section 16-3-510 does not constitute a defense to violations of Sections 16-3-510 or 16-3-520.

SECTION 16-3-612. Student committing assault and battery against school personnel; definitions.

(A) For purposes of this section:
(1) "Student" means a person currently enrolled in any school.

(2) "School" includes, but is not limited to, a public or private school that contains any grades of kindergarten through twelfth grade, public or private colleges, universities, and any vocational, technical, or occupational school.

(B) A student who commits an assault and battery, other than one that is aggravated, on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity including, but not limited to, administrators, teachers, faculty, substitute teachers, teachers' assistants, student teachers, custodial staff, food service staff, volunteers, law enforcement officers, school bus drivers, school crossing guards, or other regularly assigned school-contracted persons is guilty of assault and battery against school personnel which is a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, or imprisoned not more than one year, or both.

SECTION 16-3-850. Film and computers containing sexually explicit pictures and images of minors to be reported

Any retail or wholesale film processor or photo finisher who is requested to develop film, and any computer technician working with a computer who views an image of a child younger than eighteen years of age or appearing to be younger than eighteen years of age who is engaging in sexual conduct, sexual performance, or a sexually explicit posture must report the name and address of the individual requesting the development of the film, or of the owner or person in possession of the computer to law enforcement officials in the state and county or municipality from which the film was originally forwarded. Compliance with this section does not give rise to any civil liability on the part of anyone making the report."

SECTION 16-3-1040. Threatening life, person or family of public official or public employee; punishment.

(A) It is unlawful for a person knowingly and willfully to deliver or convey to a public official or to a teacher or principal of an elementary or secondary school any letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public official, teacher, or principal, or members of his immediate family if the threat is directly related to the public official's, teacher's, or principal's professional responsibilities.
(B) It is unlawful for a person knowingly and willfully to deliver or convey to a public employee a letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public employee or members of his immediate family if the threat is directly related to the public employee's official responsibilities.
(C) A person who violates the provisions of subsection (A), upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) A person who violates the provisions of subsection (B), upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.
(E) For purposes of this section:
(1) "Public official" means an elected or appointed official of the United States or of this State or of a county, municipality, or other political subdivision of this State.
(2) "Public employee" means a person employed by the State, a county, a municipality, a school district, or a political subdivision of this State, except that for purposes of this section, a "public employee" does not include a teacher or principal of an elementary or secondary school.
(3) "Immediate family" means the spouse, child, grandchild, mother, father, sister, or brother of the public official, teacher, principal, or public employee.

HARASSMENT AND STALKING

SECTION 16-3-1700. Definitions.

As used in this article:
(A) "Harassment in the first degree" means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress. Harassment in the first degree may include, but is not limited to:
(1) following the targeted person as he moves from location to location;
(2) visual or physical contact that is initiated, maintained, or repeated after a person has been provided oral or written notice that the contact is unwanted or after the victim has filed an incident report with a law enforcement agency;
(3) surveillance of or the maintenance of a presence near the targeted person's:
(a) residence;
(b) place of work;
(c) school; or
(d) another place regularly occupied or visited by the targeted person; and
(4) vandalism and property damage.
(B) "Harassment in the second degree" means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress. Harassment in the second degree may include, but is not limited to, verbal, written, or electronic contact that is initiated, maintained, or repeated.
(C) "Stalking" means a pattern of words, whether verbal, written, or electronic, or a pattern of conduct that serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person's position to fear:
(1) death of the person or a member of his family;
(2) assault upon the person or a member of his family;
(3) bodily injury to the person or a member of his family;
(4) criminal sexual contact on the person or a member of his family;
(5) kidnapping of the person or a member of his family; or
(6) damage to the property of the person or a member of his family.
(D) "Pattern" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.
(E) "Family" means a spouse, child, parent, sibling, or a person who regularly resides in the same household as the targeted person.

(F) "Electronic contact" means any transfer of signs, signals, writings, images, sounds, data, intelligence, or information of any nature transmitted in whole or in part by any device, system, or mechanism including, but not limited to, a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.
(G) This section does not apply to words or conduct protected by the Constitution of this State or the United States, a law enforcement officer or a process server performing official duties, or a licensed private investigator performing services or an investigation as described in detail in a contract signed by the client and the private investigator pursuant to Section 40-18-70.

SECTION 16-3-1705. Electronic mail service provider; immunity; definition.

(A) An electronic mail service provider must not be charged with or have a penalty assessed based upon a violation of this article or have a cause of action filed against it based on the electronic mail service provider's:
(1) being an intermediary between the sender and recipient in the transmission of an electronic contact that violates this article; or
(2) providing transmission of an electronic contact over the provider's computer network or facilities that violates this article.
(B) For purposes of this article, "electronic mail service provider" means a person or entity which:
(1) is an intermediary in sending or receiving electronic mail; and
(2) provides to users of electronic mail services the ability to send or receive electronic mail.

SECTION 16-3-1710. Penalties for conviction of harassment in the second degree.

(A) Except as provided in subsection (B), a person who engages in harassment in the second degree is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars, imprisoned not more than thirty days, or both.
(B) A person convicted of harassment in the second degree is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both if:
(1) the person has a prior conviction of harassment or stalking within the preceding ten years; or
(2) at the time of the harassment an injunction or restraining order was in effect prohibiting the harassment.
(C) In addition to the penalties provided in this section, a person convicted of harassment in the second degree who received licensing or registration information pursuant to Article 4 of Chapter 3 of Title 56 and used the information in furtherance of the commission of the offense under this section must be fined two hundred dollars or imprisoned thirty days, or both.

SECTION 16-3-1720. Penalties for conviction of harassment in the first degree.

(A) Except as provided in subsections (B) and (C), a person who engages in harassment in the first degree is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than three years, or both.
(B) A person who engages in harassment in the first degree when an injunction or restraining order is in effect prohibiting this conduct is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than three years, or both.
(C) A person who engages in harassment in the first degree and who has a prior conviction of harassment or stalking within the preceding ten years is guilty of a felony and, upon

conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.
(D) In addition to the penalties provided in this section, a person convicted of harassment in the first degree who received licensing or registration information pursuant to Article 4 of Chapter 3 of Title 56 and used the information in furtherance of the commission of the offense under this section must be fined one thousand dollars or imprisoned one year, or both.

SECTION 16-3-1730. Penalties for conviction of stalking.

(A) A person who engages in stalking is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.
(B) A person who engages in stalking when an injunction or restraining order is in effect prohibiting this conduct is guilty of a felony and, upon conviction, must be fined not more than seven thousand dollars, imprisoned not more than ten years, or both.
(C) A person who engages in stalking and who has a prior conviction of harassment or stalking within the preceding ten years is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, imprisoned not more than fifteen years, or both.
(D) In addition to the penalties provided in this section, a person convicted of stalking who received licensing or registration information pursuant to Article 4, Chapter 3 of Title 56 and used the information in furtherance of the commission of the offense pursuant to this section must be fined one thousand dollars or imprisoned one year, or both.

SECTION 16-3-1735. Law enforcement officer empowered to sign warrant in place of victim.

A law enforcement officer or another person with knowledge of the circumstances may sign a warrant in place of the victim for a person alleged to have committed a harassment or stalking offense as provided in Section 16-3-1710, 16-3-1720, or 16-3-1730.

SECTION 16-3-1740. Mental health evaluations of persons convicted of stalking or harassment; notice to victim in person of unsupervised release.

(A) Before sentencing a person convicted of stalking or harassment in the first or second degree, the court may require the person to undergo a mental health evaluation. If the court determines from the results of the evaluation that the person needs mental health treatment or counseling, the court shall require him to undergo mental health treatment or counseling by a court-approved mental health professional, mental health facility, or facility operated by the State Department of Mental Health as a part of his sentence.
(B) When the court orders a mental health evaluation, the evaluation may not take place until the facility conducting the evaluation has received all of the documentation including, but not limited to, warrants, incident reports, and NCIC reports associated with the charges.
(C) If the evaluation results in the unsupervised release of the person, the victim must be notified prior to the person's release. All reasonable efforts must be made to notify the victim personally to assure the notice is received.

SECTION 16-3-1750. Action seeking a restraining order against a person engaged in harassment or stalking; jurisdiction and venue; forms; enforceability.

(A) Pursuant to this article, the magistrates court has jurisdiction over an action seeking a restraining order against a person engaged in harassment in the first or second degree or stalking.
(B) An action for a restraining order must be filed in the county in which:
(1) the defendant resides when the action commences;
(2) the harassment in the first or second degree or stalking occurred; or
(3) the plaintiff resides if the defendant is a nonresident of the State or cannot be found.
(C) A complaint and motion for a restraining order may be filed by any person. The complaint must:
(1) allege that the defendant is engaged in harassment in the first or second degree or stalking and must state the time, place, and manner of the acts complained of, and other facts and circumstances upon which relief is sought;
(2) be verified; and
(3) inform the defendant of his right to retain counsel to represent him at the hearing on the complaint.
(D) The magistrates court must provide forms to facilitate the preparation and filing of a complaint and motion for a restraining order by a plaintiff not represented by counsel. The court must not charge a fee for filing a complaint and motion for a restraining order against a person engaged in harassment or stalking. However, the court shall assess a filing fee against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.
(E) A restraining order remains in effect for a fixed period of time of not less than one year, as determined by the court on a case-by-case basis.
(F) Notwithstanding another provision of law, a restraining order or a temporary restraining order issued pursuant to this article is enforceable throughout this State.

SECTION 16-3-1760. When temporary restraining orders may be granted without notice; notice and hearing on motion seeking restraining order.

(A) Within twenty-four hours after the filing of a complaint and motion seeking a restraining order pursuant to Section 16-3-1750, the court, for good cause shown, may hold an emergency hearing and, if the plaintiff proves his allegation by a preponderance of the evidence, may issue a temporary restraining order without giving the defendant notice of the motion for the order. A prima facie showing of present danger of bodily injury, verified by supporting affidavits, constitutes good cause.
(B) A temporary restraining order granted without notice must be served upon the defendant together with a copy of the complaint and a Rule to Show Cause why the order should not be extended for the full one-year period. The Rule to Show Cause must provide the date and time of the hearing for the Rule to Show Cause. The defendant must be served within five days before the hearing in the same manner required for service as provided in the South Carolina Rules of Civil Procedure.
(C) In cases not provided in subsection (A), the court shall cause a copy of the complaint and motion to be served upon the defendant at least five days before the hearing in the same manner required for service as provided in the South Carolina Rules of Civil Procedure.
(D) The court shall hold a hearing on a motion for a restraining order within fifteen days of the filing of a complaint and motion, but not sooner than five days after service has been perfected upon the defendant.

SECTION 16-3-1770. Form and content of temporary restraining order.

(A) A temporary restraining order granted without notice must be endorsed with the date and hour of issuance and entered of record with the magistrates court.
(B) The terms of the restraining order must protect the plaintiff and may include temporarily enjoining the defendant from:
(1) abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family;
(2) entering or attempting to enter the plaintiff's place of residence, employment, education, or other location; and
(3) communicating or attempting to communicate with the plaintiff in a way that would violate the provisions of this article.
(C) A restraining order issued pursuant to this article conspicuously must bear the following language: "Violation of this order is a criminal offense punishable by thirty days in jail, a fine of five hundred dollars, or both".
(D) A restraining order issued by a court may not contain the social security number of a party to the order and must contain as little identifying information as is necessary of the party it seeks to protect.

SECTION 16-3-1780. Expiration of temporary restraining orders and restraining orders; extensions and modifications.

(A) A temporary restraining order remains in effect until the hearing on the Rule to Show Cause why the order should not be extended for the full one-year period. The temporary restraining order must be for a fixed period in accordance with subsection (B) if the court finds the defendant in default at the hearing.
(B) In cases not provided for in subsection (A), a restraining order must be for a fixed period not to exceed one year but may be extended by court order on a motion by the plaintiff, showing good cause, with notice to the defendant. The defendant is entitled to a hearing on the extension of an order issued pursuant to this subsection within thirty days of the date upon which the order will expire.
(C) Notwithstanding subsection (B), the provisions included in a restraining order granting relief pursuant to Section 16-3-1770 dissolve one year following the issuance of the order unless, prior to the expiration of this period, the court has charged the defendant with the crime of harassment in the first or second degree or stalking and has scheduled a date for trial on the charge. If the trial has been scheduled, relief granted pursuant to Section 16-3-1770 remains in effect beyond the one-year period only until the conclusion of the trial.
(D) The court may modify the terms of an order issued pursuant to this section.

SECTION 16-3-1790. Service of certified copies of restraining orders.

A magistrates court shall serve the defendant with a certified copy of an order issued pursuant to this article and provide a copy to the plaintiff and to the local law enforcement agencies having jurisdiction over the area where the plaintiff resides. Service must be made without charge to the plaintiff.
SECTION 16-3-1800. Arrest upon violation of restraining order.

Law enforcement officers shall arrest a defendant who is acting in violation of a restraining order after service and notice of the order is provided. An arrest warrant is not required.

SECTION 16-3-1810. Law enforcement officer's responsibilities when responding to a harassment or stalking incident.

(A) The primary responsibility of a law enforcement officer when responding to a harassment in the first or second degree or stalking incident is to enforce the law and protect the complainant.
(B) The law enforcement officer shall notify the complainant of the right to initiate criminal proceedings and to seek a restraining order.

SECTION 16-3-1820. Immunity from liability for filing a report or complaint or participating in a judicial proceeding concerning alleged harassment or stalking; rebuttable presumption of good faith.

A person who reports an alleged harassment in the first or second degree or stalking, files a criminal complaint, files a complaint for a restraining order, or who participates in a judicial proceeding pursuant to this article and who is acting in good faith is immune from criminal and civil liability that might otherwise result from these actions. A rebuttable presumption exists that the person was acting in good faith.

SECTION 16-3-1830. Availability of other civil and criminal remedies.

A proceeding commenced pursuant to this article is in addition to other civil and criminal remedies.

SECTION 16-3-1840. Mental health evaluation prior to setting bail; purpose; report.

Prior to setting bail, a magistrate or a municipal judge may order a defendant charged with harassment in the first or second degree or stalking pursuant to this article to undergo a mental health evaluation performed by the local mental health department. The purpose of this evaluation is to determine if the defendant needs mental health treatment or counseling as a condition of bond. The evaluation must be scheduled within ten days of the order's issuance. Once the evaluation is completed, the examiner must, within forty-eight hours, issue a report to the local solicitor's office, summary court judge, or other law enforcement agency. Upon receipt of the report, the solicitor, summary court judge, or other law enforcement agency must arrange for a bond hearing before a circuit court judge or summary court judge.

SECTION 16-7-160. Illegal use of stink bombs or other devices containing foul or offensive odors.

It is unlawful for a person, other than a peace officer engaged in the discharge of his duty, to place or throw a stink bomb, tear-gas bomb, smoke bomb, or similar device which contains foul or offensive odors, may inflict injury, or cause fear sufficient to incite a riot or conditions of panic in or in close proximity to a public building, storehouse, theater, stadium, arena, motion picture theater, private residence, boardinghouse, or other building or structure where people lodge, congregate, or reside.
A person who violates the provisions of this section is guilty of a:
(1) misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both.
(2) felony if he causes serious bodily harm or injury and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. The court may order all or a portion of a fine to be paid to persons injured as a result of the violation to recover necessary medical expenses.

SECTION 16-7-170. Entering public building for purpose of destroying records or other property.

Any person who enters into any private or public school, college or university building, or a public building, for the purpose of destroying records or other property, or destroys or damages records or other property, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

SECTION 16-11-520. Malicious injury to tree, house, outside fence, or fixture; trespass upon real property.

(A) It is unlawful for a person to willfully and maliciously cut, mutilate, deface, or otherwise injure a tree, house, outside fence, or fixture of another or commit any other trespass upon real property of another.
(B) A person who violates the provisions of this section is guilty of a:
(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth five thousand dollars or more;
(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than one thousand dollars but less than five thousand dollars;
(3) misdemeanor triable in magistrate's court if the injury to the property or the property loss is worth one thousand dollars or less. Upon conviction, the person must be fined or imprisoned, or both, as permitted by law and without presentment or indictment of the grand jury.

SECTION 16-11-530. Malicious injury to real property; school trustees deemed owners of school property.

For the purpose of determining whether or not any school property has been maliciously injured as the offense of malicious mischief is defined in Section 16-11-520 and as to whether or not there has been a trespass upon such property as this offense is defined in Section 16-11-600 and for all prosecutions under these penal statutes and other statutes of a like nature, the trustees of the respective school districts in this State in their official capacity shall be deemed to be the owners and possessors of all school property.

SECTION 16-15-385. Disseminating harmful material to minors and exhibiting harmful performance to minor defined; defenses; penalties.

(A) A person commits the offense of disseminating harmful material to minors if, knowing the character or content of the material, he:
(1) sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or
(2) allows a minor to review or peruse material that is harmful to minors.
A person does not commit an offense under this subsection when he employs a minor to work in a theater if the minor's parent or guardian consents to the employment and if the minor is not allowed in the viewing area when material harmful to minors is shown.
(B) A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance which is harmful to minors.
(C) Except as provided in item (3) of this subsection, mistake of age is not a defense to a prosecution under this section. It is an affirmative defense under this section that:

(1) the defendant was a parent or legal guardian of a minor, but this item does not apply when the parent or legal guardian exhibits or disseminates the harmful material for the sexual gratification of the parent, guardian, or minor.
(2) the defendant was a school, church, museum, public, school, college, or university library, government agency, medical clinic, or hospital carrying out its legitimate function, or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.
(3) before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least eighteen years old, and the defendant reasonably believed the minor was at least eighteen years old.
(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

SECTION 16-11-770. (A) As used in this section, 'illegal graffiti vandalism' means an inscription, writing, drawing, marking, or design that is painted, sprayed, etched, scratched, or otherwise placed on structures, buildings, dwellings, statues, monuments, fences, vehicles, or other similar materials that are on public or private property and that are publicly viewable, without the consent of the owner, manager, or agent in charge of the property.
(B) It is unlawful for a person to engage in the offense of illegal graffiti vandalism and, upon conviction, for a:
(1) irst offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars or imprisoned not less than thirty days nor more than ninety days;
(2) second offense, within ten years, is guilty of a misdemeanor and must be fined not more than two thousand five hundred dollars or imprisoned not more than one year; and
(3) third or subsequent offense within ten years of a first offense, is guilty of a misdemeanor and must be fined not more than three thousand dollars or imprisoned not more than three years.
(C) In addition to the penalties provided in subsection (B), a person convicted of the offense of illegal graffiti vandalism also may be ordered by the court to remove the illegal graffiti, pay the cost of the removal of the graffiti, or make further restitution in the discretion of the court."

SECTION 16-17-420. Disturbing schools.

It shall be unlawful:
(1) For any person willfully or unnecessarily (a) to interfere with or to disturb in any way or in any place the students or teachers of any school or college in this State, (b) to loiter about such school or college premises or (c) to act in an obnoxious manner thereon; or
(2) For any person to (a) enter upon any such school or college premises or (b) loiter around the premises, except on business, without the permission of the principal or president in charge.
Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not less than thirty days nor more than ninety days.

SECTION 16-17-490. Contributing to delinquency of a minor.

It shall be unlawful for any person over eighteen years of age to knowingly and willfully encourage, aid or cause or to do any act which shall cause or influence a minor:
(1) To violate any law or any municipal ordinance;
(2) To become and be incorrigible or ungovernable or habitually disobedient and beyond the control of his or her parent, guardian, custodian or other lawful authority;
(3) To become and be habitually truant;
(4) To without just cause and without the consent of his or her parent, guardian or other custodian, repeatedly desert his or her home or place of abode;
(5) To engage in any occupation which is in violation of law;
(6) To associate with immoral or vicious persons;
(7) To frequent any place the existence of which is in violation of law;
(8) To habitually use obscene or profane language;
(9) To beg or solicit alms in any public places under any pretense;
(10) To so deport himself or herself as to willfully injure or endanger his or her morals or health or the morals or health of others.
Any person violating the provisions of this section shall upon conviction be fined not more than three thousand dollars or imprisoned for not more than three years, or both, in the discretion of the court.
This section is intended to be cumulative and shall not be construed so as to defeat prosecutions under any other law which is applicable to unlawful acts embraced herein.
The provisions of this section shall not apply to any school board of trustees promulgating rules and regulations as authorized by Section 59-19-90(3) which prescribe standards of conduct and behavior in the public schools of the district. Provided, however, that any such rule or regulation which contravenes any portion of the provisions of this section shall first require the consent of the parent or legal guardian of the minor or minors concerned.

SECTION 16-17-510. Enticing enrolled child from attendance in school.

It is unlawful for a person to encourage, entice, or conspire to encourage or entice a child enrolled in any public or private elementary or secondary school of this State from attendance in the school or school program or transport or provide transportation in aid to encourage or entice a child from attendance in any public or private elementary or secondary school or school program.
A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, a first or second offense must be tried exclusively in magistrate's court. Third and subsequent offenses must be tried in the court of general sessions.

SECTION 16-17-530. Public disorderly conduct.

Any person who shall (a) be found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducting himself in a disorderly or boisterous manner, (b) use obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church or (c) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharge any gun, pistol or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

SECTION 16-23-730. Hoax device or replica of destructive device or detonator; manufacture, possession or transport of; threat to use; penalties.

A person who knowingly manufactures, possesses, transports, distributes, uses or aids, or counsels, solicits another, or conspires with another in the use of a hoax device or replica of a destructive device or detonator which causes any person reasonably to believe that the hoax device or replica is a destructive device or detonator is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year or fined not more than ten thousand dollars, or both. A person who communicates or transmits to another person that a hoax device or replica is a destructive device or detonator with the intent to intimidate or threaten injury, to obtain property of another, or to interfere with the ability of another person to conduct or carry on his life, business, trade, education, religious worship, or to interfere with the operations and functions of any government entity is guilty of a felony and, upon conviction, must be imprisoned for not less than two years nor more than fifteen years.

SECTION 16-23-750. Communicating threats relating to use of explosive, incendiary, or destructive device.

A person who conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made to kill, injure, or intimidate any person or to damage or destroy any building or other real or personal property by means of an explosive, incendiary, or destructive device or who aids, employs, or conspires with any person to do or cause to be done any of the acts in this section, is guilty of a felony and, upon conviction, for a first offense must be imprisoned for not less than one year nor more than ten years. For a second or subsequent offense, the person must be imprisoned for not less than five years nor more than fifteen years. A sentence imposed for a violation of this section must not be suspended and probation must not be granted.

SECTION 44-53-445. Distribution of controlled substance within proximity of school.

(A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.
(B)(1) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.
(2) When a violation involves the distribution, sale, manufacture, or possession with intent to distribute crack cocaine, the person is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and imprisoned not less than ten nor more than fifteen years.
(3) When a violation involves only the purchase of a controlled substance, including crack cocaine, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.
(C) For the purpose of creating inferences of intent to distribute, the inferences set out in Sections 44-53-370 and 44-53-375 apply to criminal prosecutions under this section.

SECTION 59-24-60. Requirement of school officials to contact law enforcement authorities when criminal conduct occurs.

In addition to other provisions required by law or by regulation of the State Board of Education, school administrators must contact law enforcement authorities immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which may result or results in injury or serious threat of injury to the person or to another person or his property as defined in local board policy.

SECTION 59-150-250. Sale or purchase of lottery tickets involving minors.

(A) A person who knowingly sells a lottery game ticket or share to a person under eighteen years of age or permits a person under eighteen years of age to play a lottery game is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned not less than thirty days nor more than sixty days, or both, in the discretion of the court. It is an affirmative defense to a charge of a violation of this section that the lottery retailer reasonably and in good faith relied upon representation of proof of age in making the sale.

(B) A person under eighteen years of age who knowingly purchases a lottery game ticket is guilty of a misdemeanor and, upon conviction, must perform twenty hours of community service or must be fined not less than twenty-five dollars and not more than one hundred dollars.

(C) A person who is incarcerated who knowingly accepts a lottery prize is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars nor more than one hundred dollars or imprisoned for not less than two days nor more than thirty days, or both.

STUDENT DISCIPLINE

SECTION 59-63-110. This article may be cited as the 'Safe School Climate Act'.

SECTION 59-63-120. As used in this article:
(1) 'Harassment, intimidation, or bullying' means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:
(a) harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage; or
(b) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school.
(2) 'School' means in a classroom, on school premises, on a school bus or other school-related vehicle, at an official school bus stop, at a school-sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.

SECTION 59-63-130. (A) A person may not engage in:
(1) harassment, intimidation, or bullying; or
(2) reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.
(B) A school employee, student, or volunteer who witnesses, or has reliable information that a student has been subject to harassment, intimidation, or bullying shall report the incident to the appropriate school official.

SECTION 59-63-140. (A) Before January 1, 2007, each local school district shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The school district shall involve parents and guardians, school employees, volunteers, students, administrators, and community representatives in the process of creating the policy.
(B) The policy must include, but not be limited to, the following components:
(1) a statement prohibiting harassment, intimidation, or bullying of a student;
(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in
Section 59-63-120;
(3) a description of appropriate student behavior;
(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;
(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;
(6) procedures for prompt investigation of reports of serious violations and complaints;
(7) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;
(8) consequences and appropriate remedial action for persons found to have falsely accused another;
(9) a process for discussing the district's harassment, intimidation, or bullying policy with students; and
(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions.
(C) To assist local school districts in developing policies for the prevention of harassment, intimidation, or bullying, the State Board of Education shall develop model policies applicable to grades kindergarten through twelve. Additionally, the State Board of Education

shall develop teacher preparation program standards on the identification and prevention of bullying. The model policies and standards must be developed no later than September 1, 2006.
(D) The local school board shall ensure that the school district's policy developed pursuant to this article is included in the school district's publication of the comprehensive rules, procedures, and standards of conduct for schools and in the student's handbook.
(E) Information regarding a local school district policy against harassment, intimidation, or bullying must be incorporated into a school's employee training program. Training also should be provided to school volunteers who have significant contact with students.
(F) Schools and school districts are encouraged to establish bullying prevention programs and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement, and community members.

SECTION 59-63-150. (A) This article must not be interpreted to prevent a victim from seeking redress pursuant to another available civil or criminal law. This section does not create or alter tort liability.
(B) A school employee or volunteer who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the local school district's policy, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from failure to remedy the reported incident."

SECTION 59-63-210. Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

(A) Any district board of trustees may authorize or order the expulsion, suspension, or transfer of any pupil for the commission of any crime, gross immorality, gross misbehavior, persistent disobedience, or for violation of written rules and promulgated regulations established by the district board, county board, or the State Board of Education, or when the presence of the pupil is detrimental to the best interest of the school. Each expelled pupil has the right to petition for readmission for the succeeding school year. Expulsion or suspension must be construed to prohibit a pupil from entering the school or school grounds, except for a prearranged conference with an administrator, attending any day or night school functions, or riding a school bus. The provisions of this section do not preclude enrollment and attendance in any adult or night school.
(B) A district board of trustees shall not authorize or order the expulsion, suspension, or transfer of any pupil for a violation of Section 59-150-250(B).

SECTION 59-63-217. Barring enrollment of student; grounds; notice and hearing; duration of bar.

(A) In determining whether or not a student meets the standards of conduct and behavior promulgated by the board of trustees necessary for first time enrollment and attendance in a school in the district, the board shall consider nonschool records, the student’s disciplinary records in any school in which the student was previously enrolled as these records relate to the adjudication of delinquency in any jurisdiction, within or without this State, of violations or activities which constitute violent crimes under Section 16-1-60, adjudications for assault and battery of a high and aggravated nature, the unlawful use or possession of weapons, or the unlawful sale of drugs whether or not considered to be drug trafficking. Based on this consideration of the student’s record, the board may bar his enrollment in the schools of the district.

(B) If the board bars a student from enrolling pursuant to this section, notice must be provided to the student's parent or legal guardian and the student is entitled to a hearing and all other procedural rights afforded under state law to a student subject to expulsion.
(C) The bar to enrollment allowed by this section applies for a maximum of one year. After the bar is lifted, a student may reapply for enrollment and the board shall order the student enrolled if he otherwise meets enrollment criteria.

SECTION 59-63-275. Hazing prohibited at all public education institutions.

(A) For purposes of this section:
(1) 'Student' means a person enrolled in a public education institution.
(2) 'Superior student' means a student who has attended a state university, college, or other public education institution longer than another student or who has an official position giving authority over another student.
(3) 'Subordinate student' means a person who attends a public education institution who is not defined as a 'superior student' in item (2).
(4) 'Hazing' means the wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of a subordinate student of a tyrannical, abusive, shameful, insulting, or humiliating nature.
(B) Hazing at all public education institutions is prohibited. When an investigation has disclosed substantial evidence that a student has committed an act or acts of hazing, the student may be dismissed, expelled, suspended, or punished as the principal considers appropriate.
(C) The provisions of this section are in addition to the provisions of Article 6, Chapter 3 of Title 16."

SECTION 59-63-280. Possession of paging devices by public school students under age eighteen prohibited.

(A) For purposes of this section, 'paging device' means a telecommunications, to include mobile telephones, device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.
(B) The board of trustees of each school district shall adopt a policy that addresses student possession of paging devices as defined in subsection (A). This policy must be included in the district's written student conduct standards. If the policy includes confiscation of a paging device, as defined in subsection (A), it should also provide for the return of the device to the owner.

SECTION 59-66-20. School safety coordinator grant program; funding; requirements.

(A) The General Assembly annually shall provide funds in the general appropriations act to be awarded to school districts which choose to employ safety coordinators in accordance with this section. State funds may be awarded for not more than one safety coordinator for each county. The amount of the award for a county for fiscal year 1995-96 may not exceed twenty-five thousand dollars, except for counties which are designated as economically distressed pursuant to Section 41-43-180. Economically distressed counties participating in the program shall receive additional state funds for fiscal year 1995-96 in the amount of five thousand five hundred dollars. The amount which may be awarded for a county, including the additional state funds for economically distressed counties, must be increased each fiscal year after 1995-96 by the same percentage as the average teacher salary.

(B) An award of state funds to school districts under this program is contingent upon a district or group of districts jointly matching the state grant with an equal amount of funds and in-kind contributions; however, school districts located primarily within an economically distressed county are not required to match any portion of the state grant. Additionally, funds only may be awarded where the duties of the safety coordinator relate exclusively to school and district safety functions. It is the intent of the General Assembly that the safety coordinator have a strong background in law enforcement, safety matters, or coordination of relevant services.
(C) If a county consists of more than one school district, any or all school districts within the county may apply jointly for funds for a safety coordinator. Each participating school district must provide a portion of the local matching funds based upon the relationship the district's student membership bears to the total student membership of all participating districts within the county. Nonparticipating school districts in multi-district counties may begin participation in the program by contributing to the local match in the same manner as those school districts originally participating in the program.
(D) When more than one school district in a multi-district county is provided funds under this section, the safety coordinator must be an employee of the school district with the largest student membership during the immediately preceding school year, unless the participating school districts have a memorandum of agreement providing otherwise; however, the safety coordinator must provide services to all participating school districts.
(E) For purposes of this section, "student membership" means the cumulative one hundred thirty-five day average daily membership during the immediately preceding school year.
(F) The State Board of Education, through the State Department of Education, shall develop and implement regulations establishing the safety coordinator grant program.

SECTION 59-66-30. Public middle schools and high schools to be equipped with metal detector; training; regulations.

(A) Using funds appropriated by the General Assembly, each public middle, junior high, and high school in the State must be equipped with one hand-held metal detector.
(B) In consultation and cooperation with the Office of the Attorney General and the State Law Enforcement Division, the State Department of Education shall provide training in the use of hand-held metal detectors to school officials who shall use the equipment.
(C) The State Board of Education, through the State Department of Education, shall promulgate regulations to implement this section.

SCHOOL CRIME REPORTING

SECTION 59-5-65. Powers and responsibilities of State Board of Education.

The State Board of Education shall have the power and responsibility to:
(1) Establish on or before August 15, 1985, regulations prescribing minimum standards of conduct and behavior that must be met by all pupils as a condition to the right of pupils to attend the public schools of the State. The rules shall take into account the necessity of proper conduct on the part of all pupils in order that the welfare of the greatest possible number of pupils shall be promoted notwithstanding that the rules may result in suspension or expulsion of pupils, provided, however, that disciplinary procedures shall be in compliance with Public Law 94-142.
(2) Promulgate on or before August 15, 1985, regulations prescribing a uniform system of minimum enforcement by the various school districts of the rules of conduct and behavior.
(3) Promulgate rules prescribing scholastic standards of achievement. The rules shall take into account the necessity for scholastic progress in order that the welfare of the greatest possible number of pupils shall be promoted. School districts may impose additional standards of conduct and may impose additional penalties for the violation of such standards of behavior, provided, however, that disciplinary procedures shall be in compliance with Public Law 94-142;
(4) Establish on or before July 1, 1985, regulations prescribing a uniform system of enforcement by the various school districts of the state compulsory attendance laws and regulations promulgated pursuant to Section 59-65-90.
(5) Promulgate regulations to ensure that all secondary schools, with the exception of vocational schools and secondary schools whose enrollment is entirely handicapped, offer a clearly defined college preparatory program as specified by the State Board of Education.
(6) Promulgate regulations to ensure that each school district in its secondary school or vocational center shall establish clearly defined vocational programs designed to provide meaningful employment.
(7) By January 1, 1986, establish criteria for promotion of students to the next higher grade.
In grades 1, 2, 3, 6, and 8, a student's performance on the Basic Skills Test of reading shall constitute twenty-five percent of the assessment of his achievement in reading and his performance on the Basic Skills Test of mathematics shall constitute twenty-five percent of the assessment of his achievement in mathematics. The State Board of Education shall specify other measures of student performance in each of these subjects which shall constitute the remaining seventy-five percent of the student's assessment.
Any student who fails to meet the criteria established by the Board for promotion to the next higher grade must be retained in his current grade or assigned to a remedial program in the summer or in the next year. Students assigned to the remedial program must meet the minimum criteria established by the Board for his current grade at the conclusion of the remedial program to be promoted to the next higher grade. All handicapped students as defined by federal and state statutes and regulations are subject to the provisions of this section unless the student's individual education plan (IEP) as required by Public Law 94-142 defines alternative goals and promotion standards.
Nothing in this subitem shall prohibit the governing bodies of the school districts of this State from establishing higher standards for the promotion of students.
(8) Develop and implement regulations requiring all school districts to provide at least one-half day early childhood development programs for four-year-old children who have predicted significant readiness deficiencies and whose parents voluntarily allow participation. The regulations must require intensive and special efforts to recruit children whose participation is difficult to obtain. The school districts may contract with appropriate groups and agencies to provide part or all of the programs. If a local advisory committee

exists in a community to coordinate early childhood education and development, school districts shall consult with the committee in planning and developing services. The State Department of Education shall collect and analyze longitudinal data to determine the effects of child development programs on the later achievement of children by tracking four-year-old child development program participants through kindergarten and the first three years of elementary school to examine their performance on appropriate performance measures."
(9) [Deleted]
(10) Adopt guidelines whereby the secondary schools of this State shall emphasize teaching as a career opportunity.
(11) Adopt policies and procedures for the local school districts to follow whereby:
(a) Regular conferences between parents and teachers are encouraged.
(b) Each school has active parent and teacher participation on the School Improvement Council and in parent-teacher groups.
(c) Parenting classes and seminars are made readily available in every school district.
(12) Adopt policies and procedures to accomplish the following:
(a) Have school personnel encourage advice and suggestions from the business community.
(b) Have business organizations encourage their members to become involved in efforts to strengthen the public schools.
(c) Encourage all schools and businesses to participate in adopt-a-school programs.
(d) Encourage statewide businesses and their organizations to initiate a Public Education Foundation to fund exemplary and innovative projects which support improvement in the public schools.
(13) Adopt policies and procedures to accomplish the following:
(a) Expand school volunteer programs.
(b) Encourage civic and professional organizations to participate in local adopt-a-school programs.
(14) work with the leadership network established pursuant to Section 59-6-16.
(15) Develop by regulation a model safe schools checklist to be used by school districts on a regular basis to assess their schools' safety strengths and weaknesses. The checklist must include:
(a) the existence of a comprehensive safety plan;
(b) communication of discipline policies and procedures;
(c) intraagency and interagency emergency planning;
(d) recording of disruptive incidents;
(e) training of staff and students;
(f) assessment of buildings and grounds;
(g) procedures for handling visitors;
(h) assignment of personnel in emergencies;
(i) emergency communication and management procedures; and
(j) transportation rules and accident procedures.
(16) consult with the Department of Agricultural Education of Clemson University at all steps in the development of any state plan prepared to satisfy any federal requirement related to the Carl Perkins Vocational and Applied Technology and Education Act or any successor federal law, including, but not limited to, the allocation or distribution of funds under this federal act.

SECTION 59-63-310. Short title.

This article may be cited as the "School Crime Report Act".

SECTION 59-63-333. School crime requirements to conform to federal "No Child Left Behind Act".

The State Department of Education shall conform the requirements of Sections 59-63-310 through 59-63-340 on school crime so as to fulfill the provisions of the 'No Child Left Behind Act of 2001' (20 U.S.C. Section 7912) which includes reports on persistently dangerous schools and on the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary and secondary schools. A summary of the provisions of Article 4, Chapter 63 of Title 59 and Section 16-3-612 required to be included in the school's student handbook each year must be revised to conform with the requirements of this section.

SECTION 59-63-350. Local law enforcement.

Local law enforcement officials are required to contact the Attorney General's "school safety phone line" when any felony, assault and battery of a high and aggravated nature, crime involving a weapon, or drug offense is committed on school property or at a school-sanctioned or school-sponsored activity or any crime reported pursuant to Section 59-24-60.

SECTION 59-63-360. Attorney General; representation of school districts.

The Attorney General shall monitor all reported school crimes. The Attorney General or his designee may represent the local school district when a criminal case is appealed to an appellate court of competent jurisdiction.

SECTION 59-63-370. Student's conviction or delinquency adjudication for certain offenses; notification of senior administrator at student's school; placement of information in permanent school records.

Notwithstanding any other provision of law:
(1) When a student who is convicted of or adjudicated delinquent for assault and battery against school personnel, as defined in Section 16-3-612, assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity, a violent offense as defined in Section 16-1-60, an offense in which a weapon as defined in Section 59-63-370 was used, or for distribution or trafficking in unlawful drugs as defined in Article 3, Chapter 53 of Title 44 is assigned to the Department of Juvenile Justice, the Department of Corrections, or to the Department of Probation, Parole, and Pardon Services, that agency is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school in which the student is enrolled, intends to be enrolled, or was last enrolled. These agencies are authorized to request information concerning school enrollment from a student convicted of or adjudicated delinquent for an offense listed in this item.
(2) When a student convicted of or adjudicated delinquent for an offense listed in item (1) of this section is not sentenced to incarceration or probation, the presiding judge shall as part of his sentence order the clerk of the municipal, magistrate, or general sessions court to provide, within ten days, notification of the student's sentence to the appropriate school district for inclusion in the student's permanent record. If the student is under the jurisdiction of the family court and is not referred to the Department of Juvenile Justice, the prosecuting agency must provide notification within ten days to the appropriate school district.

(3) An administrator notified pursuant to this section is required to notify each teacher or instructor in whose class the student is enrolled of a student's conviction of or adjudication for an offense listed in item (1) of this section. This notification must be made to the appropriate teachers or instructors every year the student is enrolled in school.
(4) If a student is convicted of or adjudicated delinquent for an offense listed in item (1) of this section, information concerning the conviction or adjudication and sentencing must be placed in the student's permanent school record and must be forwarded with the student's permanent school records if the student transfers to another school or school district.
A "weapon", as used in this section, means a firearm, knife with a blade-length of over two inches, dirk, razor, metal knuckles, slingshot, bludgeon, or any other deadly instrument used for the infliction of bodily harm or death.

SECTION 59-63-380. School official reporting school-related crimes; immunity.

A person affiliated with a school in an official capacity is granted immunity from criminal prosecution and civil liability when making a report of school-related crime in good faith, to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school-related crime.

SECTION 59-63-390. Inclusion of school crime report act summary in student handbooks.

The senior administrator of each school is responsible for including an accurate summary of the provisions of this article and Section 16-3-612 in the school's student handbook each year.

SEARCH OF PERSON AND EFFECTS ON SCHOOL PROPERTY

SECTION 5-7-12. Designation of school resource officer; jurisdiction; employment rights.

(A) The governing body of a municipality or county may upon the request of any other governing body or of any other political subdivision of the State, including school districts, designate certain officers to be assigned to the duty of a school resource officer and to work within the school systems of the municipality or county. The person assigned as a school resource officer shall have statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. When acting pursuant to this section and outside of the sworn municipality or county of the school resource officer, the officer shall enjoy all authority, rights, privileges, and immunities, including coverage under the workers' compensation laws that he would have enjoyed if operating in his sworn jurisdiction.
(B) For purposes of this section, a "school resource officer" is defined as a person who is a sworn law enforcement officer pursuant to the requirements of any jurisdiction of this State, who has completed the basic course of instruction for School Resource Officers as provided or recognized by the National Association of School Resource Officers or the South Carolina Criminal Justice Academy, and who is assigned to one or more school districts within this State to have as a primary duty the responsibility to act as a law enforcement officer, advisor, and teacher for that school district.

SECTION 59-63-1110. Consent to search person or his effects.

Any person entering the premises of any school in this State shall be deemed to have consented to a reasonable search of his person and effects.

SECTION 59-63-1120. Searches by school administrators or officials with or without probable cause.

Notwithstanding any other provision of law, school administrators and officials may conduct reasonable searches on school property of lockers, desks, vehicles, and personal belongings such as purses, bookbags, wallets, and satchels with or without probable cause.

SECTION 59-63-1130. Searches by principals or their designees.

Notwithstanding any other provision of law, school principals or their designees may conduct reasonable searches of the person and property of visitors on school premises.

SECTION 59-63-1140. Strip searches prohibited.

No school administrator or official may conduct a strip search.

SECTION 59-63-1150. Compliance with case law; training of school administrators.

Notwithstanding any other provision of this article, all searches conducted pursuant to this article must comply fully with the "reasonableness standard" set forth in New Jersey v. T.L.O., 469 U.S. 328 (1985). All school administrators must receive training in the "reasonableness standard" under existing case law and in district procedures established to be followed in conducting searches of persons entering the school premises and of the students attending the school.

SECTION 59-63-1160. Posting of notice; costs of notice to be paid by State; effect of failure to post notice.

Notice must be conspicuously posted on school property informing the provisions of this article. The notice must be posted at least at all regular entrances and any other access point to the school grounds.
The costs of posting the notice required by this section must be paid by the State. No school or school district shall be required to incur any financial obligation for complying with the notice requirements contained in this section. The failure to post the notice provided in this section shall not constitute a defense to any civil action or criminal prosecution and shall not constitute grounds for any legal liability.

CHILDREN'S CODE

SECTION 63-7-310

(A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, police or law enforcement officer, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, or a judge must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), any person who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

SECTION 63-7-390

A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect

SECTION 63-7-410

A person required to report a case of child abuse or neglect or a person required to perform any other function under this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

SECTION 63-7-440

(A) It is unlawful to knowingly make a false report of abuse or neglect.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than ninety days, or both.

SECTION 63-19-810

(A) When a child found violating a criminal law or ordinance is taken into custody, the taking into custody is not an arrest. The jurisdiction of the court attaches from the time of the taking into custody. When a child is taken into custody, the officer taking the child into custody shall notify the parent, guardian, or custodian of the child as soon as possible. Unless otherwise ordered by the court, the person taking the child into custody may release the child to a parent, a responsible adult, a responsible agent of a court-approved foster home, group home, nonsecure facility, or program upon the written promise, signed by the person, to bring the child to the court at a stated time or at a time the court may direct. The written promise, accompanied by a written report by the officer, must be submitted to the South Carolina Department of Juvenile Justice as soon as possible, but not later than twenty-four hours after the child is taken into custody. If the person fails to produce the child as agreed, or upon notice from the court, a summons or a warrant may be issued for the apprehension of the person or of the child.

(B) When a child is not released pursuant to subsection (A), the officer taking the child into custody shall immediately notify the authorized representative of the Department of Juvenile Justice, who shall respond within one hour by telephone or to the location where the child is being detained. Upon responding, the authorized representative of the department shall review the facts in the officer's report or petition and any other relevant facts and advise the officer if, in his opinion, there is a need for detention of the child. The officer's written report must be furnished to the authorized representatives of the department and must state:

(1) the facts of the offense;

(2) the reason why the child was not released to the parent. Unless the child is to be detained, the child must be released by the officer to the custody of his parents or other responsible adult upon their written promise to bring the child to the court at a stated time or at a time the court may direct. However, if the offense for which the child was taken into custody is a violent crime as defined in Section 16-1-60, the child may be released only by the officer who took the child into custody. If the officer does not consent to the release of the child, the parents or other responsible adult may apply to any judge of the family court within the circuit for an ex parte order of release of the child. The officer's written report must be furnished to the family court judge. The family court judge may establish conditions for such release.

(C) When a child is charged by a law enforcement officer for an offense which would be a misdemeanor or felony if committed by an adult, not including a traffic or wildlife violation over which courts other than the family court have concurrent jurisdiction as provided in Section 63-3-520, the law enforcement officer also shall notify the principal of the school in which the child is enrolled, if any, of the nature of the offense. This information may be used by the principal for monitoring and supervisory purposes but otherwise must be kept confidential by the principal in the same manner required by Section 63-19-2220(E).

(D) Juveniles may be held in nonsecure custody within the law enforcement center for only the time necessary for purposes of identification, investigation, detention, intake screening, awaiting release to parents or other responsible adult, or awaiting transfer to a juvenile detention facility or to the court for a detention hearing

SECTION 63-19-820

(A) When the officer who took the child into custody determines that placement of a juvenile outside the home is necessary, the authorized representative of the Department of Juvenile Justice shall make a diligent effort to place the child in an approved home, program, or facility, other than a secure juvenile detention facility, when these alternatives are appropriate and available.

(B) A child is eligible for detention in a secure juvenile detention facility only if the child:

(1) is charged with a violent crime as defined in Section 16-1-60;

(2) is charged with a crime which, if committed by an adult, would be a felony or a misdemeanor other than a violent crime, and the child:

(a) is already detained or on probation or conditional release or is awaiting adjudication in connection with another delinquency proceeding;

(b) has a demonstrable recent record of wilful failures to appear at court proceedings;

(c) has a demonstrable recent record of violent conduct resulting in physical injury to others; or

(d) has a demonstrable recent record of adjudications for other felonies or misdemeanors; and

(i) there is reason to believe the child is a flight risk or poses a threat of serious harm to others; or

(ii) the instant offense involved the use of a firearm;

(3) is a fugitive from another jurisdiction;

(4) requests protection in writing under circumstances that present an immediate threat of serious physical injury;

(5) had in his possession a deadly weapon;

(6) has a demonstrable recent record of wilful failure to comply with prior placement orders including, but not limited to, a house arrest order;

(7) has no suitable alternative placement and it is determined that detention is in the child's best interest or is necessary to protect the child or public, or both; or

(8) is charged with an assault and battery or an assault and battery of a high and aggravated nature on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity.

A child who meets the criteria provided in this subsection is eligible for detention. Detention is not mandatory for a child meeting the criteria if that child can be supervised adequately at home or in a less secure setting or program. If the officer does not consent to the release

of the child, the parents or other responsible adult may apply to the family court within the circuit for an ex parte order of release of the child. The officer's written report must be furnished to the family court judge who may establish conditions for the release.

(C) No child may be placed in secure confinement or ordered detained by the court in secure confinement in an adult jail or other place of detention for adults for more than six hours. However, the prohibition against the secure confinement of juveniles in adult jails does not apply to juveniles who have been waived to the court of general sessions for the purpose of standing trial as an adult. Juveniles placed in secure confinement in an adult jail during this six-hour period must be confined in an area of the jail which is separated by sight and sound from adults similarly confined.

(D) Temporary holdover facilities may hold juveniles during the period between initial custody and the initial detention hearing before a family court judge for a period up to forty-eight hours, excluding weekends and state holidays.

(E) A child who is taken into custody because of a violation of law which would not be a criminal offense under the laws of this State if committed by an adult must not be placed or ordered detained in an adult detention facility. A child who is taken into custody because of a violation of the law which would not be a criminal offense under the laws of this State if committed by an adult must not be placed or ordered detained more than twenty-four hours in a juvenile detention facility, unless an order previously has been issued by the court, of which the child has notice and which notifies the child that further violation of the court's order may result in the secure detention of that child in a juvenile detention facility. If a juvenile is ordered detained for violating a valid court order, the juvenile may be held in secure confinement in a juvenile detention facility for not more than seventy-two hours, excluding weekends and holidays. However, nothing in this section precludes a law enforcement officer from taking a status offender into custody.

(F) Children ten years of age and younger must not be incarcerated in a jail or detention facility for any reason. Children eleven or twelve years of age who are taken into custody for a violation of law which would be a criminal offense under the laws of this State if committed by an adult or who violates conditions of probation for such an offense must be incarcerated in a jail or detention facility only by order of the family court.

(G) For purposes of this section, 'adult jail' or other place of detention for adults includes a state, county, or municipal police station, law enforcement lockup, or holding cell. 'Secure confinement' means an area having bars or other restraints designed to hold one person or a group of persons at a law enforcement location for any period of time and for any reason. Secure confinement in an adult jail or other place of detention does not include a room or a multipurpose area within the law enforcement center which is not secured by locks or other security devices. Rooms or areas of this type include lobbies, offices, and interrogation rooms. Juveniles held in these areas are considered to be in nonsecure custody as long as the room or area is not designed for or intended for use as a residential area, the juvenile is not handcuffed to a stationary object while in the room or area, and the juvenile is under continuous visual supervision by facility staff while in this room or area which is located within the law enforcement center. Secure confinement also does not include a room or area used by law enforcement for processing 'booking' purposes, irrespective of whether it is determined to be secure or nonsecure, as long as the juvenile's confinement in the area is limited to the time necessary to fingerprint, photograph, or otherwise 'book' the juvenile in accordance with state law.

SECTION 63-19-1030

(A) Whenever a person informs the court that a child is within the purview of this chapter, the court shall make preliminary inquiry to determine whether the interest of the public or of the child requires that further action be taken. Thereupon, the court may make an informal adjustment as is practicable without a petition or may authorize a petition to be filed by any person.

(B) The petition and all subsequent court documents must be entitled:

'In the Family Court of _____ County.

In the Interest of ___, a child under seventeen years of age.'

The petition must be verified and may be upon information and belief. It shall set forth plainly:

(1) the facts which bring the child within the purview of this chapter;

(2) the name, age, and residence of the child;

(3) the names and residences of the child's parents;

(4) the name and residence of a legal guardian, if there is one, of the person or persons having custody of or control of the child, or of the nearest known relative if no parent or guardian can be found. If any of these facts are not known by the petitioner, the petition shall state that.

(C) Before the hearing of a case of a child, the judge shall cause an investigation of all the facts pertaining to the issue to be made. The investigation shall consist of an examination of the parentage and surroundings of the child, the child's age, habits and history, and also shall include inquiry into the home conditions, habits and character of the child's parents or guardian, if that is necessary in the discretion of the court. In these cases the court, if advisable, shall cause the child to be examined as to the child's mentality by a competent and experienced psychologist or psychiatrist who shall make a report of the findings. Before the hearing in the case of a child, if the child attends school, a report on the child must be obtained from the school which the child attends. The school officials shall furnish the report upon the request of the court or its probation counselor. The court, when it is considered necessary, shall cause a complete physical examination to be made of the child by a competent physician.

(D) In a case where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed, the child or the child's parents or guardian must be given written notice with particularity of the specific charge or factual allegations to be considered at the hearing. The notice must be given as soon as practicable and sufficiently in advance to permit preparation. The child or the child's parent or guardian also must be advised in the notice of their right to be represented by counsel and that, if they are unable to employ counsel, counsel will be appointed to represent them. In the hearing, the parent and child also must be expressly informed of their right to counsel and must be specifically required to consider whether they do or do not waive the right of counsel.

SECTION 63-19-2010

The court shall make and keep records of all cases brought before it. The records of the court are confidential and open to inspection only by court order to persons having a legitimate interest in the records and to the extent necessary to respond to that legitimate interest. These records must always be available to the legal counsel of the child and are open to inspection without a court order where the records are necessary to defend against an action initiated by a child.

SECTION 63-19-2020

A) Except as provided herein, all information obtained and records prepared in the discharge of official duty by an employee of the court or department are confidential and must not be disclosed directly or indirectly to anyone, other than the judge, the child's attorney, or others entitled under this chapter or any other provision of law to receive this information, unless otherwise ordered by the court. The court may order the records be disclosed to a person having a legitimate interest and to the extent necessary to respond to that legitimate interest. However, these records are open to inspection without a court order where the records are necessary to defend against an action initiated by a child.

(B) The director of the department must develop policies providing for the transmission of necessary and appropriate information to ensure the provision and coordination of services or assistance to a child under the custody or supervision of the department. This information must include that which is required for the admission or enrollment of a child into a program of services, treatment, training, or education. The information may be provided to another department or agency of state or local government, a school district, or a private institution or facility licensed by the State as a child-serving organization. This information may be summarized in accordance with agency policy.

(C) The director is authorized to enter into interagency agreements for purposes of sharing information about children under the supervision or in the custody of the department. The agencies entering into these agreements must maintain the confidentiality of the information.

(D) Reports and recommendations produced by the department for the court for the purpose of a dispositional hearing must be disseminated by the agency to the court, the solicitor, and the child's attorney.

(E)(1) The department must notify the principal of a school in which a child is enrolled, intends to be enrolled, or was last enrolled upon final disposition of a case in which the child is charged with any of the following offenses:

(a) a violent crime, as defined in Section 16-1-60;

(b) a crime in which a weapon, as defined in Section 59-63-370, was used;

(c) assault and battery against school personnel, as defined in Section 16-3-612;

(d) assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity; or

(e) distribution or trafficking in unlawful drugs, as defined in Article 3, Chapter 53 of Title 44.

(2) Each school district is responsible for developing a policy for schools within the district to follow to ensure that the confidential nature of a child offense history and other information received is maintained. This policy must provide for, but is not limited to:

(a) the retention of the child offense history and other information relating to the child offense history in the child's school disciplinary file or in some other confidential location;

(b) the destruction of the child offense history upon the child's completion of secondary school or upon reaching twenty-one years of age; and

(c) limiting access to the child's school disciplinary file to school personnel. This access must only occur when necessary and appropriate to meet and adequately address the educational needs of the child.

(F) When requested, the department must provide the victim of a crime with the name of the child and the following information retained by the department concerning the child charged with the crime:

(1) other basic descriptive information, including but not limited to, a photograph;

(2) information about the juvenile justice system;

(3) the status and disposition of the delinquency action including hearing dates, times, and locations;

(4) services available to victims of child crime; and

(5) recommendations produced by the department for the court for the purpose of a dispositional hearing.

(G) The department or the South Carolina Law Enforcement Division, or both, must provide to the Attorney General, a solicitor, or a law enforcement agency, upon request, a copy of a child offense history for criminal justice purposes. This information must not be disseminated except as authorized in Section 63-19-2030. The department and the South Carolina Law Enforcement Division must maintain the child offense history of a person for the same period as for offenses committed by an adult.

(H) Other information retained by the department may be provided to the Attorney General, a solicitor, or a law enforcement agency pursuant to an ongoing criminal investigation or prosecution.

(I) The department may fingerprint and photograph a child upon the filing of a petition, release from detention, release on house arrest, or commitment to a juvenile correctional institution. Fingerprints and photographs taken by the department remain confidential and must not be transmitted to the State Law Enforcement Division, the Federal Bureau of Investigation, or another agency or person, except for the purpose of:

(1) aiding the department in apprehending an escapee from the department;

(2) assisting the Missing Persons Information Center in the location or identification of a missing or runaway child;

(3) locating and identifying a child who fails to appear in court as summoned;

(4) locating a child who is the subject of a house arrest order; or

(5) as otherwise provided in this section.

(J) Nothing in this section shall be construed to waive any statutory or common law privileges attached to the department's internal reports or to information contained in the file of a child under the supervision or custody of the department.

SECTION 63-19-2030

(A) Except as provided herein, law enforcement records and information identifying children pursuant to this chapter are confidential and may not be disclosed directly or indirectly to anyone, other than those entitled under this chapter to receive the information.

(B) Law enforcement records of children must be kept separate from records of adults. Information identifying a child must not be open to public inspection, but the remainder of these records are public records.

(C) Law enforcement agencies must maintain admission and release records on children held in secure custody, nonsecure custody, or both. The records must include the times and dates of admission and release from secure and nonsecure custody and, if appropriate, the times and dates of transfer from one custody status to another.

(D) Law enforcement information or records of children created pursuant to the provisions of this chapter may be shared among law enforcement agencies, solicitors' offices, the Attorney General, the department, the Department of Mental Health, the Department of Corrections, and the Department of Probation, Parole and Pardon Services for criminal justice purposes without a court order.

(E) Incident reports in which a child is the subject are to be provided to the victim of a crime pursuant to Section 16-3-1520. Incident reports, including information identifying a child, must be provided by law enforcement to the principal of the school in which the child is enrolled when the child has been charged with any of the following offenses:

(1) a violent crime, as defined in Section 16-1-60;

(2) an offense that would carry a maximum term of imprisonment of fifteen years or more if committed by an adult;

(3) a crime in which a weapon, as defined in Section 59-63-370, was used;

(4) assault and battery against school personnel, as defined in Section 16-3-612;

(5) assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity; or

(6) distribution or trafficking in unlawful drugs, as defined in Article 3, Chapter 53 of Title 44.

Incident reports involving other offenses must be provided upon request of the principal. This information must be maintained by the principal in the manner set forth in Section 63-19-2020(E) and must be forwarded with the child's permanent school records if the child transfers to another school or school district.

(F) A child charged with any offense may be photographed by the law enforcement agency that takes the child into custody. If the child is taken into secure custody and

detained, the detention facility must photograph the child upon admission. These photographs may only be disseminated for criminal justice purposes or to assist the Missing Persons Information Center in the location or identification of a missing or runaway child.

(G) A child charged with an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult must be fingerprinted by the law enforcement agency that takes the child into custody. If the child is taken into secure custody and detained, the detention facility must fingerprint the child upon admission. In addition, a law enforcement agency may petition the court for an order to fingerprint a child when:

(1) the child is charged with any other offense; or

(2) the law enforcement agency has probable cause to suspect the child of committing any offense.

(H) The fingerprint records of a child must be kept separate from the fingerprint records of adults. The fingerprint records of a child must be transmitted to the files of the State Law Enforcement Division.

(I) The fingerprint records of a child may be transmitted by the State Law Enforcement Division to the files of the Federal Bureau of Investigation only when the child has been adjudicated delinquent for having committed an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult.

(J) The fingerprint records of a child adjudicated delinquent for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult must be provided by the State Law Enforcement Division or the law enforcement agency who took the child into custody to a law enforcement agency upon request by that agency for criminal justice purposes or to assist the Missing Person Information Center in the location or identification of a missing or runaway child.

(K) The fingerprints and any record created by the South Carolina Law Enforcement Division as a result of the receipt of fingerprints of a child pursuant to this section must not be disclosed for any purpose not specifically authorized by law or court order.

(L) Upon notification that a child has not been adjudicated delinquent for an offense that would carry a maximum term of imprisonment of five years or more if committed by an adult, the South Carolina Law Enforcement Division and the law enforcement agency who took the child into custody must destroy the fingerprints and all records created as a result of such information.

SECTION 63-5-60

(A) The State of South Carolina, a political subdivision of the State including, but not limited to, a school district, or any other person including, but not limited to, an individual, a religious organization, a corporation, a partnership, or other entity, whether incorporated or unincorporated, is entitled to recover damages in an amount not to exceed five thousand dollars in a civil action in a court of competent jurisdiction from the parents or legal guardian of the person of a minor under the age of eighteen years and residing with the parents or the legal guardian of the person who maliciously or wilfully causes personal injury to the individual or destroys, damages, or steals property, real, personal, or mixed, belonging to the State of South Carolina, the political subdivision of the State including, but not limited to, a school district, or other person including, but not limited to, an individual, religious organization, corporation, partnership, or other entity, whether incorporated or unincorporated.

(B) Recovery under this section is limited to actual damages.

(C) Nothing in this section limits the application of the family purpose doctrine.

(D) The liability of parents or legal guardians under subsection (A) is joint and several with the minor for the injury or the destruction, damage, or theft, as the case may be, as long as the minor would have been liable for the injury or the destruction, damage, or theft if the minor had been an adult. Nothing in this section may be construed to relieve the minor from personal liability for the injury or the destruction, damage, or theft. The liability in this section is in addition to and not in lieu of other liability which may exist by law.

(E) This section does not apply to persons having custody or charge of a minor under the authority of a state agency or a county social services department or to state agencies or county departments of social services which have legal custody or charge of a minor.

Title of Regulation: **Regulation No.: R43-166**

STUDENT AND SCHOOL SAFETY **Effective Date:** 03/28/97

Constitutional and Statutory Provisions:

Sections
59-1-380. Suspension of make up days. Repealed.
59-1-430. Make up days.
59-5-60. General powers of [State] Board.
59-5-65. Powers and responsibilities of [State] Board.
59-19-90(7). General powers and duties of school trustees.
59-63-910, et seq. Fire Drills.
59-66-20. School safety coordinator grant program; funding; requirements.
Code of Laws of South Carolina, 1976 (Revised 1990).

Descriptor Code: None

State Board Regulation:

Student and School Safety

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

a. the existence of a comprehensive safety plan;
b. communication of discipline policies and procedures;
c. intra-agency and interagency emergency planning;
d. recording of disruptive incidents;
e. training of staff and students;
f. assessment of buildings and grounds;
g. procedures for handling visitors;
h. assignment of personnel in emergencies;
I. emergency communication and management procedures; and
j. transportation rules and accident procedures.

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools checklist should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness.

B. First Aid Supplies.

Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities.

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans.

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education, which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.